

§ 15.204

(b) If response to the demand is required before the instructions from the Secretary are received, the U.S. Attorney or such other attorney as may be designated for the purpose, will appear with the employee of the Department upon whom the demand has been made, and will furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration of the Secretary. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Secretary.

[52 FR 12160, Apr. 15, 1987, as amended at 66 FR 6973, Jan. 22, 2001]

§ 15.204 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 15.203(b) pending receipt of instructions from the Secretary, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Secretary not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Toughy v. Ragen*, 340 U.S. 462).

[52 FR 12161, Apr. 15, 1987, as amended at 66 FR 6973, Jan. 22, 2001]

Subpart D—Testimony of Employees in Legal Proceedings

SOURCE: 52 FR 12161, Apr. 15, 1987, unless otherwise noted. Redesignated at 66 FR 6973, Jan. 22, 2001.

§ 15.301 Purpose.

(a) This subpart prescribes the policies and procedures of the Department with respect to testimony of its employees as witnesses in legal proceedings with respect to material contained in the files of the Department or information learned as part of the performance of the their official duties or because of their official status.

24 CFR Subtitle A (4–1–05 Edition)

(b) For purposes of this subpart, the term *employee of the Department* includes current and former officers and employees of the United States appointed by or subject to the supervision of the Secretary, but does not include officers and employees covered by part 2004 of this title.

[52 FR 12161, Apr. 15, 1987, as amended at 60 FR 58457, Nov. 27, 1995]

§ 15.302 Testimony in proceedings in which the United States is a party.

(a) In any legal proceeding in which the United States is a party, an employee of the Department may not be called to testify as an expert or opinion witness by any party other than the United States unless specifically authorized by the Secretary or the General Counsel for good cause shown. An employee may be called by a non-federal party to testify as to facts.

(b) Whenever, in any legal proceeding in which the United States is a party, the attorney in charge of presenting the case for the United States requests it, the Secretary shall arrange for an employee of the Department to testify as a witness for the United States.

[52 FR 12161, Apr. 15, 1987. Redesignated at 66 FR 6973, Jan. 22, 2001, and amended at 67 FR 65276, Oct. 23, 2002]

§ 15.303 Legal proceedings among non-federal litigants; general rule.

(a) In any legal proceeding exclusively among non-federal litigants, no employee of the Department may, unless specifically authorized by the Secretary or General Counsel for good cause shown, testify as an expert or opinion witness as to any matter related to his or her duties or the functions of the Department, including the meaning of Departmental documents.

(b) For purposes of this subpart, “good cause” includes action necessary to prevent a miscarriage of justice or to promote a significant interest of the Department.

[67 FR 65276, Oct. 23, 2002]

§ 15.304 Legal proceedings among private litigants; subpoenas.

Whenever, in a legal proceeding exclusively among private litigants, an employee of the Department is served